

REMARKS

Claims 1-24 were pending in the case prior to this amendment and were all rejected in the Final Office Action. Claims 1 and 14-16 have been amended herein, and no claims have been cancelled. The amendments to claims 1 and 16 are responsive to the rejections contained in the final office action. The rejections are traversed for the record, however, and applicant reserves the right to file identical or similar claims in a subsequent continuation or divisional application.

Rejections Under 35 U.S.C. § 112

Claims 1-24 were rejected under 35 U.S.C. 112, first paragraph, for failing to comply with the written description requirement, and the specification was correspondingly objected to. Applicant has amended independent claims 1 and 16 herein in a manner believed to overcome the rejections.

Rejections Under 35 U.S.C. § 102 and § 103

Claims 1-5 and 16-19 were rejected under 35. U.S.C. 102(b) as being anticipated by Guern (U.S. Patent No. 5260701). Claims 1-5, 9, and 16-19 were rejected under 35. U.S.C. 102(b) as being anticipated by Slocum (U.S. Patent No. 4494545). Claims 1, 2, 16, and 17 were rejected under 35. U.S.C. 102(b) as being anticipated by Baldwin (U.S. Patent No. 4075632). Claims 6-15, 20, 22, and 23 were rejected under 35. U.S.C. 103 as being unpatentable over Guern or Slocum. Claims 3-15, 18-20, 22, and 23 were rejected under 35. U.S.C. 103 as being unpatentable over Baldwin. The amendments to independent claims 1 and 16 are believed to overcome the rejections. Specifically, applicant finds no teaching or suggestion in the prior art of record for a telemetry system or method as recited by claim 1 or 16 where the transmitter and receiver antennas are linearly polarizing antennas orthogonal to one another and the implantable device antenna is elliptically polarizing. The recitations of dependent claims 2-15 and 17-24 are further limitations to the subject matter recited by claims 1 and 16, respectively, and are neither taught nor suggested by the prior art of record in that context. Reconsideration and withdrawal of the rejections of claims 1-24 is thus respectfully requested.

Timely Traversal of Assertions of Things Known to One of Skill in the Art

Applicant generally traverses the assertion of things "known to one of skill in the art" as a form of Official Notice and requests a reference to support such assertions pursuant to MPEP 2144.03, or their withdrawal in the next official communication.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney ((847) 432-7302) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date 11-2-04

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CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelop addressed to: Commissioner for Patents, MS: RCE, P.O. Box 1450, Alexandria, VA 22313-1450, on this 2 day of November 2004.

Name: Paula Suchy

Signature: Paula Suchy